

1 John Shaeffer (State Bar No. 138331)  
jshaeffer@lathropgage.com  
2 Jeffrey Grant (State Bar No. 218974)  
jgrant@lathropgage.com  
3 LATHROP & GAGE LLP  
4 1888 Century Park East, Suite 1000  
5 Los Angeles, CA 90067  
6 Telephone: (310) 784-4600  
Fax: (310) 784-4601

7  
8 Petty Tsay Rader (State Bar No. 227563)  
petty.rader@munchkin.com  
9 MUNCHKIN, INC.  
10 16689 Schoenborn Street  
North Hills, CA 91343  
11 Telephone: (818) 893-5000  
12 Fax: (818) 893-6343

13 Attorneys for Plaintiff MUNCHKIN, INC.

14 **UNITED STATES DISTRICT COURT**  
15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

16 MUNCHKIN, INC., a Delaware  
17 corporation,

18 Plaintiff,

19 vs.

20 LUV N' CARE, LTD., a Louisiana  
21 corporation, and

22 ADMAR INTERNATIONAL, INC., a  
23 Delaware corporation.

24 Defendants.

Case No. 13-cv-7228-ODW-AGR

**JOINT CLAIM  
CONSTRUCTION AND  
PREHEARING STATEMENT**

Action Filed: September 30, 2013

Munchkin, Inc. (“Munchkin”) and Luv N’ Care, Ltd. and Admer International, Inc. (collectively, “Luv N’ Care”) respectfully present their Joint Claim Construction and Prehearing Statement pursuant to N.D. Cal. P.L.R. 4-3.

**A. Agreed Constructions**

The parties have not agreed upon the construction of any claim terms (apart from agreeing that non-disputed terms need no formal construction).

**B. Proposed Constructions and Supporting Evidence**

Munchkin proposes the following constructions, with currently identified supporting evidence, for the disputed terms:

<b>Claim Term</b>	<b>Munchkin’s Proposed Construction</b>	<b>Current Evidence</b>
corner	“a portion of the flexible fabric material containing the intersection of two or more of the material’s side edges”	‘962 Patent, at 1:48-50, 4:14-20, 4:54-56, FIGS. 1-6
permanently secured	“directly affixed so as to overlap at least a portion of that to which it is affixed and not be easily de-attachable without the use of tools”	‘962 Patent, at 1:48-50, 3:15-4:13, FIGS. 1-7
teething element	“an element that is: separate from the flexible fabric material; made from a non-toxic material; and sized and dimensioned to be comfortably inserted and partially retained within an infant’s mouth for teething purposes”	‘962 Patent, at 1:10-31, 2:66-4:13, 4:20-29, 4:57-5:8, 5:20-31, 6:10-23, FIGS. 1-7

Luv N’ Care proposes the following constructions, with currently identified supporting evidence, for the disputed terms:

<b>Claim Term</b>	<b>Luv N’ Care’s Proposed Construction</b>	<b>Current Evidence</b>
corner	No construction necessary	

1	permanently secured	No construction necessary	
2	teething element	No construction necessary	

3

4 **C. Most Significant Claim Terms**

5 Munchkin submits that no claim term or construction thereof is claim or case  
6 dispositive. Munchkin further submits that no disputed claim term is more  
7 significant than any other. As such, and given that there are only three disputed  
8 terms at issue, no ranking of terms by significance is necessary.

9 **D. Anticipated Time Necessary for Claim Construction Hearing**

10 The parties anticipate that the length of time necessary for the claim  
11 construction hearing is approximately two (2) hours.

12 **E. Anticipated Witnesses for Claim Construction Hearing**

13 Neither party anticipates calling any witnesses at the claim construction  
14 hearing.

15

16 Dated: May 19, 2014

**LATHROP & GAGE LLP**

17 By: /s/ Jeffrey Grant  
18 R. Cameron Garrison  
19 John Shaeffer  
20 Jeffrey Grant  
21 Petty Tsay Radar

22 Attorneys for Plaintiff  
MUNCHKIN, INC.

23 Dated: May 19, 2014

**DILWORTH IP**

24 By: /s/Robert M. Ward

25 Attorneys for Defendants  
26 LUV N' CARE, LTD. and  
27 ADMAR INTERNATIONAL, INC.  
28

**SIGNATURE ATTESTATION**

Pursuant to Civil L.R. 5-4.3.4, I hereby attest that concurrence has been obtained from Robert M. Ward, counsel for Defendants, indicated by a “conformed” signature (/s/) within this e-filed document.

/s/ Jeffrey Grant  
Jeffrey Grant